IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No. 1960 of 2000
Date of Decision: 14.2.2007

Praveen Kumar and others ...Petitioners

Versus

Smt. Shashi Prabha and others ....Respondents

Coram: Hon'ble Mr. Justice Hemant Gupta.

Present: Shri Sudhir Mittal, Advocate, for the petitioners.

Shri S.S. Walia, Advocate, for the respondent No. 1.

Shri G.S. Godara, DAG, Haryana, for respondent Nos. 3 and 4.

HEMANT GUPTA, J.

Challenge in the present revision petition is to the order passed by the learned Executing Court on 20.12.1999, whereby the petitioners were directed to return a sum of Rs.70452.69 with interest @ 10% p.a. from April, 1995 till the date of its realization.

In the year 1974, the State of Haryana acquired 11 kanals 16 marlas of land i.e. 7132 square yards. The Land Acquisition Collector, Hansi, determined the amount of compensation on 6.3.1985. One Shashi Prabha was the owner to the extent of 152 square yards of the land in question, whereas the petitioners were the owners of the land measuring 2840.75 square yards, both being co-sharers along with Balwant Singh and Bhagwanti.

During the course of execution, it was found that the petitioners have withdrawn Rs.7,48,992.02, although the amount payable to

them was Rs.6,78,539.33 and therefore, an amount of Rs.70452.69 has been withdrawn in excess by the petitioners. It was also found that Bhagwanti and Balwant Singh, the other co-sharers have also got their share of the amount of compensation.

Learned counsel for the petitioners has vehemently argued that the Improvement Trust is liable to make payment of enhanced amount of compensation to the petitioners, therefore, the petitioners could not have been called upon to return the amount to respondent No.1 herein.

However, I do not find any merit in the said argument raised by the learned counsel. The amount of compensation deposited by the Improvement Trust has to be apportioned between the co-sharers in the same ratio as they have a share in the land. It could not be disputed that in terms of the share in the land, the compensation of Rs.70452.69 has been withdrawn in excess by the petitioners. Though the petitioners may have still claim for the balance enhanced amount of compensation from the Improvement Trust, but that will not absolve the petitioners from the liability to return the amount paid in excess to their share out of the compensation amount deposited by the Improvement Trust, to the other co-owners.

In view thereof, I do not find any illegality or irregularity in the order passed by the learned Executing Court, whereby a sum of . Rs.70452.69 was ordered to be returned.

At this stage, learned counsel for the petitioners has argued that the interest @ 10% awarded by the learned Executing Court is highly excessive as it was not an intentional act on the part of the petitioners. Keeping in view the fact that the amount paid to the petitioners

in excess is not on account of any deliberate act but on account of some mistake, I deem it appropriate to direct the petitioners to refund the said amount along with interest @ 6% p.a. from April, 1995 i.e. in terms of Section 34 CPC. With the modification in the rate of interest, the present petition stands dismissed.

However, it shall be open to the decree holders including the petitioners to recover the balance amount of compensation, if any, from the Improvement Trust, in accordance with law.

14-02-2007 (HEMANT GUPTA)
ds JUDGE